

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Daryll Gray, III.

Case No. Case: 2:23-mj-30241
Assigned To : Unassigned
Assign. Date : 6/8/2023
CMP USA V GRAY (LH)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 6, 2023 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

Code Section
18 U.S.C. § 922(o)

Offense Description
Illegal Possession of Machine Gun

This criminal complaint is based on these facts:
See attached affidavit.

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

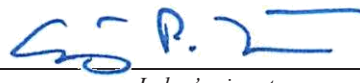
Date: June 8, 2023

City and state: Detroit, MI



Complainant's signature

Victor Mota, Special Agent, ATF
Printed name and title



Judge's signature

Hon. Anthony P. Patti, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Victor A. Mota, being first duly sworn, hereby state:

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Department of Justice, and have been so employed since March 2020. I am currently assigned to the Detroit Field Division, group VII. I am tasked with investigating violations of firearms and narcotics laws. Prior to becoming a Special Agent with ATF, I was an Officer with the United States Customs and Border Protection Office of Field Operations for ten years as well as a supervisor for about two years. I completed the United States Customs and Border Protection Basic course in Brunswick, Georgia, the Criminal Investigator Training Program in Brunswick, Georgia, and the ATF Special Agent Basic Training at the Federal Law Enforcement Training Center in Brunswick, Georgia. I obtained a Bachelor of Science degree in Criminal Justice from Wayne State University.

2. I make this affidavit from personal knowledge based on my participation in this investigation, including interviews conducted by myself and/or other law enforcement agents, communications with others who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience.

3. ATF is currently conducting a criminal investigation concerning Daryll GRAY, III. (B/M; DOB: XX/XX/1996) for violation of 18 U.S.C. § 922(o) (illegal possession of machine gun).

PROBABLE CAUSE

4. Title 18, United States Code, Section 922(o) prohibits the possession of a machinegun manufactured after May 19, 1986. An individual can affix a machinegun conversion device to a Glock pistol to make the pistol shoot automatically and function as a machinegun. Pursuant to 18 U.S.C. § 921(a)(23), the term “machinegun” has the meaning given such term in section 5845(b) of the National Firearms Act (NFA) (26 U.S.C. § 5845(b)). Under the NFA, the term “machinegun” means “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.” 26 U.S.C. § 5845(b). A machinegun conversion device – commonly referred to as “Glock Switch” or “Glock Auto Sear” – is a part, or combination of parts, designed and intended for use in converting a semiautomatic Glock pistol into a weapon that shoots automatically more than one shot, without

manual reloading, by a single function of the trigger machinegun; therefore, it is a “machinegun.” Further, ATF is not aware of any machinegun conversion devices for Glock pistols that were developed before May 19, 1986. As such, machinegun conversion devices for Glock pistols are considered post-1986 machineguns.

5. On June 6, 2023, at approximately 3:42 p.m., Detroit Police officers in a semi-marked scout car and modified uniform were on routine patrol in the area of Chalfonte Street and Fairfield Street in Detroit, Michigan. Officers saw GRAY walking in the street with a bulge on the right side of his body. The driver-officer pulled the scout car up next to GRAY and advised him to be careful walking in the street, due to drag racing in the area.

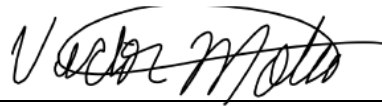
6. While the officers—who were seated in the scout car—were interacting with GRAY, GRAY turned his body so that his right side was turned away from the scout car. One of the officers asked GRAY if he had a weapon, and GRAY did not respond. The officers opened their doors to get out of the scout car and GRAY took off running. The officers chased after him.

7. As GRAY fled from officers, he pulled out a black handgun and tossed it into the street. One officer caught up to GRAY and placed him under arrest. A second officer recovered the firearm—a loaded black Glock 27 Gen4 handgun—which appeared to be equipped with a machinegun conversion device. Officers also recovered a 29-round Glock extended magazine, loaded with 20 live rounds from near where the officers stopped GRAY.

8. ATF Special Agent Kenton Weston viewed the body worn camera video of the officer who recovered GRAY's firearm. In addition to basic ATF training, SA Weston is a graduate of a specialized course on privately made firearms and machinegun conversion devices (PMF/MCD). SA Weston has provided instruction to DPD officers on the identification of PMFs and MCDs. SA Weston has experience in the investigation, seizure, and examination of dozens of PMFs and MCDs. After viewing the video, SA Weston noted a protrusion on the rear of the slide of the Glock model firearm. SA Weston confirmed that the device affixed to the firearm appeared to be a machinegun conversion device (MCD), colloquially referred to as a "Glock Switch."

9. I know from reviewing publicly available information that Glock 27 Gen4 handguns were not sold by Glock prior to 2010. Therefore, GRAY's firearm was first sold into commerce after May 19, 1986.

Respectfully submitted,



Victor Mota
ATF Special Agent

Sworn to before me and signed in my
presence and/or by reliable electronic means.



Hon. Anthony P. Patti
United States Magistrate Judge

Date: June 8, 2023